



1943.

File No. O. Te. Disputes / 43

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BRANCH

Subject:—

Opinions Under the Trade
Disputes Act, 1929

P. 4
/ E.

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C O N T E N T S

Legal Department File No. O. Trade Disputes/43.

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Opinions under the Trade Disputes Act, 1929.

1*

O.N. - 6192
15-9-43.

It would be objectionable
for the Adjudicator to amend
his award without bearing the
parties.

1-3.

JPE.10/7/56.5c.

PHB
24-7-56

NIA
21/7

8394/18.

Submitted.

2. The facts are: There was a trade dispute between the workers of the (1) B.S. Navigation Co. Ltd. (2) The Alcock Ashdown Coy. Ltd. and (3) the ~~Mazgaon~~ Mazgaon Dock Ltd. and the employers.

The demands of the respective workers are at pp. 3, 5~~4~~ and 7 ante. Govt. by its notfn. Nos. 6431/34A, 6431-/34B and 6431/34C, dated 26-10-194² respectively appointed Mr. A Latifi under rule 81A(1) of the D of I Rules as adjudicator to adjudicate said trade dispute. Mr. Latifi was authorised by the same notification to follow such procedure as is prescribed for a Board of Conciliation under the Trade Disputes Act, 1929. The Adjudicator heard the three disputes to-

gether but recorded a self contained interim

*In each dispute
(vide pp. 23, 24
& 24 ante). Each
award consists
of two parts:
first part of the
award.*

award consists of the finding of the Adjudicator, and the ~~said~~ second part consists of the terms of settlement between the disputing parties. The award was called interim because both the

parties to the dispute agreed that the general demand No. 2 "that the wages of every class of worker be graded, with annual increments" be considered separately by the adjudicator as it involved the wider issues. As soon as the interim award was received, Government passed an order under rule 81A(1)(d) and (e) of the D of I. Rules for enforcing for a period of four months the decision of the adjudicator (Vide G.N.No. 6431/34(11)(a), No. 6431(11)(b) and No. 6431(11)(c) dated 1-5-1943 at pp. 136-37 ante). This general demand No. 2 ~~demand~~ formed subject

of.....

of separate hearing and ultimately on the 29th July 1943 the Union representing the workers made an application to adjudicator withdrawing the demand. Accordingly the Adjudicator made a final report in each dispute as at pp. 141, 147, 513 ante respectively. In this final award the Adjudicator states as under:

"In view of the application I recommended that no demand regarding the gradation of the wages and salaries of the workers with automatic increments be raised by the employees during such period as Government may direct." P. & S.D. thinks that as the said demand was withdrawn the adjudicator should have stated that no award is necessary upon it. The Department further thinks that if it is held that the adjudicator can make an award upon the demand, there will be difficulty in enforcing the award as it requires government to specify the period during which the employees should not be allowed to raise the demand. As the Government cannot supplement the award it is proposed to request Mr. Latifi to recast the award so as to make it enforceable. The Commissioner of Labour's remarks in the matter are at pp. 159-161 ante. The R.L.A. is requested to give advice in the matter.

Office of the R.L.A.

It seems that Mr. Latiff's final award was framed so as to meet the wishes of the parties. Apart therefore from the question of the legality of amendment at this stage, it would be objectionable for Mr. Latifi to amend this award without again hearing the parties, even although neither party appears to have suggested that Government should fix the period. Government probably does not wish to accept the onus of fixing the period. The best course in the circumstances seems to be to make an order meantime under clause (d) of rule 81A of the Defence of India Rules.

Id/- P.N.M.
14/9

Remembrancer of Legal Affairs.

U.R. to P. & S.D., 6192,

dated the 15th September 1943.

JPE. 10/7/56.
4 copies.